



DEPARTMENT OF INSURANCE STATE OF NORTH DAKOTA

Jim Poolman
Commissioner of Insurance

SUMMARY OF INSURANCE LEGISLATION (with Century Code references)

58TH LEGISLATIVE ASSEMBLY
EFFECTIVE AUGUST 1, 2003

Financial

HB 1140 – Financial examinations, mutual company existence, Articles of Incorporation, and HMO annual statement filing (26.1-03-19.2(3), 26.1-12-03(5), 26.1-12-04, 26.1-18.1-08). Allows the Commissioner to accept a financial examination performed by auditors from a nonaccredited state, allows a mutual company to exist in perpetuity, removes the Attorney General's review of company Articles of Incorporation, and allows a nondomestic HMO to file its annual report after March 1 if allowed to do so by its domestic state.

HB 1141 – Reinsurance agreements (26.1-10.1-01(1), 26.1-10.1-03). Requires that an insurance company report all new material reinsurance agreements to the Commissioner.

HB 1233 – Subsidiaries of nonprofit mutual insurance company (26.1-17-33.1(5)). Allows a nonprofit mutual insurance company to establish a subsidiary or form a joint venture to conduct a function that the company could conduct directly.

SB 2121 – Annual statement – Electronic filing (26.1-03-07). Allows the Commissioner to designate the National Association of Insurance Commissioners as a repository for the filing of annual statements, thereby facilitating the filing of annual reports electronically with the National Association of Insurance Commissioners.

SB 2205 – Annual statement – Waiver of penalty (26.1-03-16). Allows the Commissioner to grant an extension or otherwise waive the penalty for late filing of an annual statement upon a showing of good cause.

General

HB 1137 – Timelines for companies to respond (26.1-02-03). Allows a company 20 days for a company to respond to a request for information from the Commissioner unless an extension of time has been granted by the Commissioner. Also provides a penalty for knowingly providing false, misleading, or incomplete information.

Insurance Fraud

HB 1231 – Fraud (26.1-02.1). Defines a fraudulent insurance act, mandates that a company report a fraudulent act, provides immunity to a person that reports a fraudulent act, creates a fraud unit within the Department, and affords the Department subpoena, search and arrest warrant, and investigative powers. It also provides a criminal penalty for acts of insurance fraud. Becomes effective August 1, 2003. Commissioner will initiate a rulemaking to define reporting requirements, etc., and will publish a bulletin prior to August 1, 2003, to provide guidance until the rules become final.

Life and Health

HB 1061 – Long term care insurance (26.1-45-01(3), (4), (5), and (6), 26.1-45-05.1, 26.1-45-07(2)(b), 26.1-45-09, 26.1-45-11, 26.1-45-14). Adopts NAIC Model Law for Long Term Care Insurance, including enabling legislation to adopt regulations for rate stabilization and stronger suitability and disclosure requirements. Requires a company to offer consumers the option of a long term care insurance nonforfeiture benefit, and provides consumer protections in the event of significant rate increases (contingent benefit upon lapse).

HB 1139 – Group life and COLI (26.1-29-09.1(3)(e), 26.1-33-11(13), 26.1-37-01(2)(c), 26.1-38.1-03(1)(a)). Requires interest to be paid on death claims under group life policies, consistent with death claims insured under individual policies. Requires that a corporation obtain written consent of an employee prior to purchasing insurance on the life of an employee.

HB 1164 – Long term care insurance (23-09-01(8), 50-24.5-01, 50-24.5-02, 50-24.5-02.1, 50-32-01, 50-32-02, 50-32-03, 50-32-04). Replaces a registration requirement with a licensing requirement for assisted living facilities.

HB 1399 – Prescription drugs (26.1-01-11). Directs the Insurance Commissioner to create and implement a program to assist individuals of low income in gaining access to prescription drug assistance programs offered by pharmaceutical manufacturers.

HB 1469 – Medicaid eligibility (50-24.1-02.5, 50-24.1-21). Defines what the Department of Human Services may consider as a disqualifying transfer through insurance.

SB 2120 – Small employer group health insurance (26.1-36.3-01, 26.1-36.3-04(2), 26.1-36.3-07, 26.1-36.3-09). Repeals the small employer carrier reinsurance program.

SB 2160 – Child support and medical support (14-09-08.11, 14-09-08.20, 14-09-09.13, 14-09-09.15, 14-09-09.16(1) and (9), 14-09-09.17, 14-09-09.30, 14-09-09.32, 14-09-09.33, 14-09-09.34, 26.1-36.5-03, 50-09-33). Requires that an insurer comply with provisions of the national medical support notice, timeframes, and enrollment requirements for health coverage.

SB 2184 – Minimum standards for utilization review (26.1-26.4-04). Provides for utilization review standards consistent with federal law and with standards established by the United States Department of Labor.

SB 2210 – Group health mandated coverage for substance abuse (26.1-36-08, 26.1-36.1-08.1). Allows an insurer to provide an alternative treatment program for substance abuse within certain guidelines.

SB 2235 – Minimum nonforfeiture amounts of annuity contracts (26.1-34-02). Redefines the minimum interest rate and the expense factors to be used in calculating minimum nonforfeiture amounts in an annuity contract.

SB 2275 – Coordination of benefits for automobile and health insurance (26.1-41-13). Increases the \$5,000 threshold to \$10,000 when health insurers coordinate benefits with automobile no-fault insurers.

SB 2281 – Small employer health benefit plan participation requirements (26.1-36.3-06(3)(d)(3)(a)). Provides that individual health insurance coverage is not “qualified existing coverage” for purposes of determining group participation rates.

SB 2384 – Medicaid eligibility (50-24.1-02.8). Defines what the Department of Human Services may consider as a disqualifying transfer through an annuity.

Privacy

HB 1179 – Privacy (26.1-02-27). Allows the Commissioner to adopt rules that provide “opt in” protection for a customer’s nonpublic personal financial information. Rules may prohibit disclosure of financial information unless the customer authorizes the disclosure.

Producer Licensing

HB 1264 – Controlled insurance business (26.1-26-53). Creates a new section that prohibits controlled business with some exceptions. Prohibits Commissioner from issuing a producer license if applicant proposes to write controlled business. “Controlled business” excludes crop insurance business sold by a business entity licensed as an insurance producer for crop insurance between August 1, 2001, and December 31, 2002.

HB 1371 – Maximum commission or fee of a bail bondsman (26.1-26.6-08). Allows the commission for a bail bond to be not more than the greater of 10% of the bond or \$75.

SB 2123 – Surplus lines insurance (26.1-44-02, 26.1-44-08). Requires that a surplus lines insurance producer file the surplus lines affidavit within 60 days of the effective date of a policy and allows the Commissioner to waive fines in special circumstances.

Property and Casualty

HB 1142 – Withdrawal of insurance companies, non-renewal of commercial and homeowners insurance, product liability and legal malpractice reports (26.1-01-06, 26.1-03-12, 26.1-03-13, 26.1-03-14, 26.1-03-15, 26.1-25-04.4, 26.1-30.1-06(1), 26.1-39-16(1)). Requires that a property and casualty company notify the Commissioner in writing in advance of its withdrawal from the market, changes non-renewal notice requirement for commercial insurance to 60 days, changes non-renewal notice requirement for homeowners to 45 days, and repeals the requirement for filing special product liability and legal malpractice claims reports.

HB 1190 – Uninsured and underinsured motorist, liability insurance, and salvage title certificate (26.1-40-15.2(4), 26.1-40-15.3(3), 26.1-41-20, 39-05-20.2). Amends uninsured and underinsured motorist provision to define who pays for attorney's fees and to allow insurers to press all defenses, amends no-fault exemption to prohibit coverage if person had one prior conviction under N.D. Cent. Code § 39-08-20 and was driving without liability insurance at the time of the accident, and amends the salvage certificate law to exclude glass and hail damage in the calculation of a vehicle's retail value for purposes of meeting the 75% threshold.

HB 1193 – Seat belts (39-21-41.4). Provides that a violation for not wearing a seat belt is not evidence of negligence.

HB 1238 – Liability insurance (39-08-20(1)). Places the burden of proof as to the time of acquisition of insurance on the driver or owner.

HB 1260 – Credit information (26.1-25.1-01 through 26.1-25.1-11). Sets forth requirements, prohibitions, and conditions for the use of credit information in personal lines insurance. Law is effective April 30, 2004.

HB 1263 – Automobile accident damage liability (32-03.2-02.1). Clarifies that N.D. Cent. Code § 32-03.2-02.1 – Comparative Fault Exception, applies to a motor vehicle accident in which two persons are at fault but cause damage to a third party's property, and does not apply to personal injury claims.

SB 2061 – Uniform Arbitration Act (32-29.3-01 through 32-29.3-29). Repeals previous version of the Act and replaces it with a new version. Clarifies that an arbitration agreement between insurers which renounces a right of appeal is enforceable.

SB 2224 – Efficient proximate cause (26.1-32-01, 26.1-32-03). Clarifies when efficient proximate cause doctrine applies and allows an insurer to contract out of the doctrine.

SB 2238 – Automobile insurance notice requirements (26.1-40-24). Requires that an insurer provide clear and specific notice to the insured in the event of total loss.

SB 2251 – Property insurance placement facility (26.1-52-01 through 26.1-52-10). Enables the establishment of a property insurance placement facility for homeowners if needed. Sets forth specific requirements for the authority of a property placement facility board. Membership to include companies in the homeowners market.

SB 2262 – Legislative Council study of no-fault (LC study). Provides for a study of the motor vehicle no-fault, underinsured, and uninsured motorist systems and requires a report to the next Legislative Assembly.

SB 2275 – Coordination of benefits for automobile no fault insurance (26.1-41-13). Amends N.D. Cent. Code § 26.1-41-13 to increase the threshold for coordination of benefits between auto and health insurers from \$5,000 to \$10,000.

SB 2379 – Assumption of risk (LC study). Provides for a study by the Legislative Council of assumption of risk to be reported to the next Legislative Assembly.

HCR 3056 – Medical liability insurance (LC study). Provides for a study regarding the medical liability insurance affordability and availability crisis and the feasibility of allowing providers to participate in the North Dakota Insurance Reserve Fund.

HCR 3059 – Small claims court (LC study). Provides for a study to evaluate the small claims court system and the appeal mechanism therein, to be reported to the next Legislative Assembly.

SCR 4019 – Consumer reports (LC study). Provides for a Legislative Council study to evaluate inaccurate and obsolete information in credit reports, to be reported to the next Legislative Assembly.

Viatical Settlement Providers and Brokers

SB 2122 – Renewal date (26.1-33.2-02(4)). Changes the viatical license renewal period to May 1 for viatical settlement brokers and providers.

Miscellaneous

HB 1415 – Bail bonds (26.1-26.6-09). Relates to the return of a forfeiture to a bondsman.

SB 2029 – CHAND (26.1-08-01(11), 26.1-08-12(4)(d), 26.1-08-12(10)(d), 26.1-08-12(11)(e), 26.1-12-08(12)(e)). Relates to health insurance coverage through CHAND and legislative measures mandating health insurance coverage of services.

SB 2195 – CHAND (26.1-03-17(2), 26.1-04-03(20), 26.1-08-01 through 26.1-08-04, 26.1-08-06 through 26.1-08-14, 57-38-30.4). Relates to health insurance coverage through CHAND.

HB 1438 – Medical records (23-12-14). Relates to the copies of medical records.

The complete text of all legislative bills, resolutions, and journals is available on the World Wide Web at www.state.nd.us/lr.